United Nations S/2002/1192

Security Council

Distr.: General
24 October 2002

Original: English

Letter dated 24 October 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/810).

The Counter-Terrorism Committee has received the attached supplementary report from Chile submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Letter dated 24 September 2002 from the Permanent Representative of Chile to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit to you herewith Chile's response to the Counter-Terrorism Committee's supplementary questionnaire on the report submitted by Chile pursuant to Security Council resolution 1373 (2001) (see appendix).

I should be grateful if you would have this response distributed as a document of the Security Council.

(*Signed*) Juan Gabriel **Valdés**
Ambassador
Permanent Representative of Chile to the United Nations

Appendix

Response of the Government of Chile to the Counter-Terrorism Committee's supplementary questionnaire on the report submitted by Chile pursuant to resolution 1373 (2001)*

I. Introduction

1. In accordance with paragraph 6 of Security Council resolution 1373 (2001), Chile responded on 27 December 2001 to the questionnaire prepared by the Counter-Terrorism Committee established pursuant to that resolution.

2. In considering the report submitted by Chile, the Committee, with the assistance of its panel of experts, formulated a number of preliminary comments/questions on the report, concerning which it requested supplementary information.

3. The present report, which follows the order of the relevant paragraphs and subparagraphs of resolution 1373 (2001), responds to those comments and questions as follows:

II. Specific responses

4. Subparagraph 1 (a)

Could Chile please outline the relevant provisions amending the law on illicit traffic in narcotics and psychotropic substances that provide for the establishment of a Financial Analysis and Intelligence Unit?

On 12 July 2002, the executive branch introduced in the Chamber of Deputies a bill establishing a Financial Analysis and Intelligence Unit.

This draft legislation was detached from title IV of the bill amending the Act on the illicit traffic in narcotic drugs and psychotropic substances, which had been submitted to the National Congress in 1999. It was thought preferable to submit the proposed legislation in a separate bill in order to speed up its passage, since it enjoys broad parliamentary support.

To this end, a new bill establishing the Financial Analysis and Intelligence Unit was introduced and is now before the Chamber of Deputies in the first phase of the legislative approval process stipulated by the Constitution. The bill has already been approved by the Chamber's Constitutional and Finance Committees and must now be voted on by the full chamber before being taken up in the Senate. For the information of the Committee, the text of the bill, as approved by the Finance Committee of the Chamber of Deputies in the first phase of the legislative adoption process, is attached to this report as annex 1.

The main object of the Unit will be to prevent the use of the financial system and other sectors of economic activity for the commission of the crime of money-laundering or laundering of the proceeds of the crimes described in article 19 (a) of the bill, which include terrorism in any of its forms.

* The enclosures are on file with the Secretariat and are available for consideration.

Please outline the legislative provisions and procedures in Chile for the monitoring of suspicious financial transactions. Are there any legal reporting obligations for financial institutions and other intermediaries (such as lawyers, notaries) that contribute to the prevention of economic and financial operations with terrorist or other criminal aims? What penalties apply to non-compliance with the legal obligations?

What legislative provisions and procedures are currently in place to monitor suspicious financial transactions?

The concept of a suspicious financial operation or transaction does not exist in the current law (Act No. 19.366), although it is introduced in the bill establishing the Financial Analysis and Intelligence Unit. Nevertheless, the State Defence Council, in accordance with the provisions of its own Organic Act and the special provisions of Act No. 19.366 on the illicit traffic in narcotic drugs and psychotropic substances which is currently in force, is responsible for: (a) conducting preliminary administrative investigations into the crime of money-laundering (article 14 of Act No. 19.366); and (b) instituting criminal proceedings in cases of money-laundering (article 13 of Act No. 19.366).

The Superintendency of Banks and Financial Institutions, acting within its legal authority, has also issued instructions to banks and financial institutions concerning steps aimed at preventing money-laundering. These include the introduction of certain policies and procedures, the appointment of an official with responsibility for oversight and the establishment of rules for reporting suspicious cases.

The Superintendency has broad powers to promote and enforce compliance with laws and regulations. These legal provisions are fully applicable to the crimes of money-laundering and financing of terrorism, and the penalties imposed range from various levels of warning and fines to revocation of authorization to operate (licence), without prejudice to any criminal penalties that the courts may apply, where appropriate.

Consideration is currently being given to changes in the law that might be necessary with respect to the freezing of accounts and assets in banks and financial institutions. Another important measure is the establishment of legal and/or administrative rules under which banks and financial entities would be required to adopt certain security measures (such as monitoring, follow-up and reporting of suspicious banking or financial operations; complete and rigorous identification of holders of bank accounts, especially in the case of legal entities; and preservation of documents and background information on banking transactions).

Are there any legal reporting obligations for financial institutions and other intermediaries (such as lawyers and notaries) that contribute to the prevention of economic and financial operations with terrorist or other criminal aims?

No. The reporting obligation is established in the bill setting up the Financial Analysis and Intelligence Unit, which is currently before the legislature.

What penalties apply to non-compliance with the legal obligations?

Since there is no reporting obligation, there are no penalties. Article 3 of the bill establishing the Financial Analysis and Intelligence Unit requires financial institutions and other agents to report to the Unit any suspicious or unusual acts or

transactions and imposes a penalty for non-compliance of 61 days' to three years' imprisonment and a fine of 40 to 100 monthly tax units (US$ 1,500 to US$ 3,850). This reporting obligation will apply to banks, foreign exchange houses, stock exchanges and stockbrokers, notaries, casinos and gaming houses, among others.

Please describe the recommendations that are to be implemented by banks and financial institutions, as referred to in the report.

The Superintendency of Banks and Financial Institutions has published chapters 1 to 14 of the updated compilation of norms which provides guidance on the provisions that banks will have to apply in preventing money-laundering. These provisions, which originally referred to the laundering of the proceeds of drug trafficking, were extended by circular No. 3150 of October 2001 to activities related to the financing of terrorist acts. The text of the circular is attached as annex 2 to this report.

In addition, pending the adoption of the bill establishing the Financial Analysis and Intelligence Unit, the Association of Banks and Financial Institutions, a trade group that includes nearly all the country's banks and financial institutions, has produced an instruction manual containing the same recommendations which is now in use.

5. **Subparagraph 1 (b)**

Please provide a progress report and an outline of the draft law incorporating into national law a special offence in order to criminalize the wilful provision or collection of funds to finance terrorism.

The bill criminalizing the wilful provision or collection of funds to finance terrorism is ready for submission to the legislature. It also incorporates the recommendations contained in Security Council resolution 1373 (2001).

The bill is in the form of an amendment to Act No. 18.314. It typifies and establishes penalties for terrorist conducts, punishing anyone who collects or provides by any means, directly or indirectly, funds for use in the commission of crimes characterized as terrorist acts.

6. **Subparagraph 1 (c)**

Please elaborate on the legislative reform currently being considered with respect to the freezing of accounts and other assets in banks and financial institutions, as referred to in the report.

With the promulgation of Act No. 19.806, amending the Code of Penal Procedure, the power of the State Defence Council in cases involving money-laundering to request, inter alia, the freezing of all kinds of deposits held in accounts has been transferred to the Public Prosecutor's Office, which, under the amended Code of Penal Procedure now in force in the country, is the government body responsible for the criminal prosecution of crimes.

The amended Code of Penal Procedure is being brought into force gradually, region by region, with the result that the State Defence Council retains this power in regions where the amended Code has yet to enter into force.

7. **Subparagraph 1 (d)**

What preventive and surveillance measures are available to ensure that funds and other economic resources intended for religious, charitable and cultural purposes are not diverted from their stated purposes?

Please explain whether any law governs alternative money transfer agencies.

There are two levels of controls to ensure that funds intended for non-profit purposes are not diverted to illicit purposes or ends.

The first level is preventive and takes place prior to the establishment of a non-profit entity, during the processing of the entity's application for legal personality. It is carried out, in coordination with the Ministry of Justice, by the regional administration or provincial government where the entity is domiciled, and the institutions concerned rely for these purposes on the Policía de Investigaciones. The control takes the form of an evaluation of the economic capacity of the entity in relation to the aims and purposes declared by it in its statutes (article 22 of Supreme Decree No. 110 of 1979).

There is a second form of control at this preventive level, consisting of a criminal background check on the members of the board of directors of the entity that is being established. Under article 8 of Supreme Decree No. 110, no one who has been the subject of any criminal proceeding at any time during the 15 years preceding the date of the application for legal personality may be a member of the board of directors. This background check is carried out directly by the Ministry of Justice on the basis of information provided by the Civil Registry and Identification Service. The purpose of this control is to ensure that the individuals who run this kind of entity meet the necessary ethical standards.

A second level of control (a posteriori) is exercised once the entity has come into existence. This control is ongoing and involves the entity's obligation to submit its complete accounting report and balance sheet each year to the Ministry of Justice. This means that the Ministry is able to monitor the entity's economic activity and may demand, among other things, clarifications and supplementary reports (article 34 of Supreme Decree No. 110, in conformity with Decree-Law No. 1183 of 1975 as amended by Decree-Law No. 1382 of 1976, of the Ministry of Finance).

In any case, and without prejudice to the foregoing, it should be mentioned that overall monitoring and surveillance of economic activities is carried out by the Internal Taxation Service, the agency responsible for tax collection in our country. As part of its functions, the Service closely monitors on an ongoing basis the economic and accounting activity of anyone who works or runs a business (whether an individual or a legal entity operating for profit).

8. **Subparagraph 2 (a)**

Please explain whether the current legal provisions relating to recruitment to terrorist groups are applicable to recruitment in Chile to terrorist groups outside Chile.

Recruitment in Chile for terrorist activities is punishable as unlawful terrorist association under the provisions of article 2 (5) of Act No. 18.314 relating to articles 292 et seq. of the Penal Code, which characterize the crime of ordinary unlawful

association. Indeed, such recruitment, by its very nature, presupposes the existence of unlawful association.

In this case, and without prejudice to any responsibility that may apply if a terrorist crime results (as stipulated in article 294 bis of the Penal Code), the penalty is short-term imprisonment (medium degree), on the understanding that the unlawful association was formed for the commission of crimes (article 294 of the Penal Code), increased in both cases by one degree (article 3 of Act No. 18.314). Consequently, the penalty is a term of imprisonment ranging from three years and one day to five years. Now, all this is on the understanding that the funder does not control or encourage the unlawful terrorist association, otherwise the penalties applicable to him are those stipulated in article 293 of the Penal Code, increased by two degrees. In essence, this means simple life imprisonment to qualified life imprisonment (life imprisonment with the possibility of parole after 20 years to life imprisonment with the possibility of parole after 40 years).

Without prejudice to the foregoing, the act referred to in this response may also be punished, in a situation where it clearly coincides with the crime of unlawful terrorist association (in which case only one of the two crimes may apply), as the crime typified in article 8 of Act No. 17.798 on Arms Control. We are referring to the crime of unlawful association as defined in the Arms Control Act, which punishes, inter alia, those who organize, finance or equip, or those who instruct, incite or induce others to create and operate, private militias, combat groups or militarily organized parties armed with explosives or firearms.

In such cases, the penalty is a term of imprisonment ranging from five years and one day to 20 years. If participation is limited to "helping" create and operate such armed groups, the prison term is three years and one day to five years. Conversely, if the offences defined in the preceding paragraphs are committed by members of the armed forces or the police and security forces, whether on active service or retired, the penalty is a prison term ranging from 10 years and one day to simple life imprisonment.

Please outline article 2 of the law on arms control. What legal provisions or procedures are applicable to the acquisition of weapons?

Outline of article 2 of the Arms Control Act

Article 2 of Act No. 17.798 on Arms Control lists the weapons, explosives and military materiel in general whose acquisition, possession and bearing are subject to the controls established by the Act.

Those controls are carried out by the Ministry of Defence through the Directorate of National Mobilization. In addition, for control purposes, the armed forces garrison commands, the authorities of the *Carabineros*, the arms and explosives testing agency and the armed forces specialized services act as executing, financial monitoring or advisory authorities.

Article 2 stipulates that the following weapons, materiel and objects shall be subject to the aforementioned controls:

(a) Military materiel, meaning weapons of any kind manufactured for use in wartime by the armed forces, and means of land, sea and air combat, manufactured or specially adapted for this purpose;

(b) Firearms of all calibres and their parts and components;

(c) Ammunition and cartridges;

(d) Explosives, bombs and other similar devices and their parts and components;

(e) Chemicals which could be used to manufacture explosives or which serve as a basis for the production of ammunition, projectiles, missiles or rockets, bombs, cartridges and tear-producing or biological weapons;

(f) Facilities intended for the manufacture, assembly, stockpiling or storage of such elements; and

(g) Fireworks, pyrotechnic articles and other similar devices and their parts and components.

Legal provisions or procedures applicable to the acquisition of weapons

This aspect is regulated by Act No. 17.798 on Arms Control and its implementing regulations (Decree No. 77 of the Ministry of Defence of 1982).

First of all, article 3 of the Act imposes an objective limit by prohibiting the sale, possession, bearing and use of specific weapons and materiel (this restriction is waived for the armed forces and the police).

The weapons subject to this prohibition are as follows: sawn-off shotguns; short arms of any calibre that are totally automatic; camouflaged weapons (that is, weapons disguised to appear harmless); machine guns; submachine guns; and any other automatic or semi-automatic weapon that is highly destructive or effective, whether because of its power, the calibre of its projectiles or its targeting mechanisms. The prohibition also includes devices manufactured on the basis of asphyxiating, paralysing or poisonous gases, corrosive substances or metals that splinter when the gases expand, and devices for launching or activating them. Lastly, there is a provision that in no case may anyone possess or hold chemical, biological or nuclear weapons (designated "special weapons").

Before moving on to the acquisition of weapons, it should be mentioned that there are rigorous controls and restrictions on the manufacture, assembly, import and export of weapons and objects listed in article 2 (authorization by the Directorate of National Mobilization, with strict requirements and conditions, etc.).

Control of the acquisition of weapons and explosives is based essentially on two mechanisms:

(i) A strict system of authorizations for the acquisition, possession, sale, transfer, bearing, etc. of arms;

(ii) A strict system of registration for persons so authorized.

(i) Authorization system (article 4 of Act No. 17.798):

(a) Authorization — competent authority — admissibility

The Act establishes that no individual or legal entity may possess or hold the weapons and objects listed in article 2 (a), (b), (c), (d) and (e) or transport, store, distribute or conclude agreements or contracts (in other words, sell, purchase, transfer, acquire, give or receive on hire, loan or deposit, etc.) relating to such

weapons and objects without authorization from the Directorate of National Mobilization. On an exceptional basis, authorization for weapons other than those listed in article 2 (a) may be granted by other public authorities such as the armed forces garrison commands or the senior authorities of the *Carabineros*.

The Act establishes that the authorities may permit registration of a weapon only when, in their judgement, it can be assumed from the background of its owner or holder that he will comply with the restrictions on the possession and holding of weapons established by the Act (having a fixed abode, etc.). To that end, they may demand such background information as they deem necessary to determine the applicant's suitability and the nature and purpose of the operation involved. The authorities can always deny, suspend or attach conditions to authorization (article 37 of the regulations). In short, the authorities' power is completely discretionary and they may revoke the authorization or registration at any time.

(b) Scope of the authorization

Authorization or registration allows the owner or holder of a weapon to keep it only at his declared residence, place of work or place that he is seeking to protect.

Moreover, it should be mentioned that no authorizations or permits can be granted or registrations accepted for more than two firearms per person (except in highly exceptional cases provided for in the Act itself: collectors, hunters or authorized dealers).

The rights protected by authorizations are non-transferable and inalienable (article 5 of the regulations). Likewise, authorizations lapse in the event of failure to comply with any of the obligations that they entail (article 6 of the regulations).

(c) Procedure

Authorization always takes effect through registration in the name of the person authorized to possess or hold the weapon (article 5 of Act No. 17,798).

Purchasers or future holders must always request authorization for the purchase or acquisition, which is given in the form of a purchase order that expires 10 working days after its date of issue.

Applications to transfer an authorized firearm and its ammunition must be accompanied by the registration document and state the reason for the sale or change of owner. Once it has studied the background of the person acquiring the firearm, the authority may grant or refuse authorization for the transfer. The following documents are required for that purpose:

- Registration document for the weapon;
- Transfer application, signed by both parties.

If the owner of registered weapons dies, a new registration in the name of the person inheriting them must be requested (article 38 of the regulations).

(d) Bearing of weapons

A similar control system and procedure apply with respect to authorization to bear weapons. In this case, the authorization is valid for a maximum of one year and only the permit holder is authorized to carry a weapon.

(ii) Registration system (article 5 of Act No. 17.798):

The Act provides that all (authorized) firearms must be registered, in the name of the owner and holder (or bearer), with the same authorities as indicated above.

It also provides that the Directorate of Recruitment and Mobilization must keep a national register of arms registrations (National Arms Register).

9. Subparagraph 2 (d)

Please explain whether the general rules of the Penal Code which prevent and punish terrorist acts apply also to persons and entities that use the territory of Chile to plan or commit terrorist acts outside the territory of Chile.

To the extent that the activities of individuals or gangs that organize international terrorism constitute per se unlawful association or other punishable acts, they can be prevented and punished.

Besides, there is always the possibility of passive extradition if the crime is the subject of a criminal prosecution abroad. For instance, if it is considered admissible for Chile to extradite the perpetrators, precautionary measures such as restriction orders, arrest and pre-trial detention can be adopted to make it easier to hand them over subsequently to the requesting country.

What is the competence of the courts of Chile to deal with criminal acts of each of the following kinds:

- **an act committed outside Chile by a person who is a citizen of, or habitually resident in, Chile (whether that person is currently present in Chile or not);**
- **an act committed outside Chile by a foreign national who is currently in Chile?**

In this connection, attention is drawn to the extraterritoriality provisions contained in our laws.

By virtue of those provisions, the following crimes and offences committed outside the territory of the Republic by Chileans or naturalized citizens are subject to Chilean jurisdiction:

1. Acts committed by a diplomatic or consular agent of the Republic in the performance of his duties (article 6 (1) of the Courts Organic Code);

2. In general, a series of offences of corruption (bribery, embezzlement, etc.) committed by Chilean public officials or even by foreigners in the service of the Republic (article 6 (2) of the Courts Organic Code);

3. Acts against the sovereignty or external security of the State committed by Chileans or naturalized citizens (article 6 (3) of the Code);

4. Acts committed by Chileans against Chileans, if the perpetrator returns to Chile without having been tried by the authorities of the country in which the crime was committed (article 6 (6) of the Code).

In addition to the cases listed above, the following crimes and offences committed outside the territory of the Republic are subject to Chilean jurisdiction,

regardless of the nationality or country of habitual residence of the perpetrators or accomplices and regardless of the State in which they happen to be:

1. Drug trafficking and crimes against public health when they endanger the health of Chile's inhabitants (article 6 (3) of the Code and article 55 of Act No. 19.366);

2. Crimes committed on board a Chilean ship on the high seas or on board a Chilean warship in the waters of another State (article 6 (4) of the Code);

3. Piracy (article 6 (7) of the Code);

4. Crimes provided for in treaties concluded with other States (articles 6 (8) of the Code).

All of the foregoing is without prejudice to any dispute over jurisdiction that may arise when other States also claim jurisdiction.

10. Subparagraph 2 (e)

According to the report, "consideration is being given to amending provisions concerning terrorist acts, terrorist organizations, persons that support and finance terrorist organizations, and other aspects of the struggle against terrorism, particularly criminal laws, criminal procedure laws and laws on finance". Please provide a progress report on any steps taken in this regard.

Please see response under subparagraph 2 (a) in this report.

11. Subparagraph 2 (f)

What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or support of terrorist acts) must be met and how long, on average, does it actually take in practice to implement such a request in Chile?

There is no specific legal time frame. Generally speaking, it will very much depend on the type of cooperation requested and the nature of the proceedings to which the request relates. It tends to take between five and seven months to meet the request. However, once the Amended Code of Penal Procedure is in force throughout Chile (by the end of 2004), these time frames should get shorter because of the functions to be assumed by the Public Prosecutor's Office with regard to criminal investigations.

12. Subparagraph 2 (g)

Please describe the mechanism for inter-agency coordination between the authorities responsible for narcotics control, financial tracking and security, in particular in regard to border control preventing the movements of terrorists.

With respect to narcotics control, the institutional framework in place provides for the convening of a National Drug Council, presided over by the Minister of the Interior and bringing together the authorities of the services involved in combating drug trafficking, to review public policy in this area. This is in keeping with the national strategy against drug use and trafficking.

It also provides for periodic meetings of a Control Committee presided over by the Assistant Secretary of the Interior and comprising the directors of the services dealing with narcotics control, among them the *Carabineros*, the *Policía de Investigaciones*, the Customs Service, the Coastguard Service, the Directorate of Public Security and Information and the Public Health Institute. Concomitantly, the various joint border committees established with Argentina, Peru and Bolivia meet regularly to study ways of improving the established control mechanisms for combating drug trafficking.

Operationally, the various drug control bodies meet often to coordinate investigations leading to the criminal prosecution of persons and organizations involved in drug trafficking. They are also active members of networks for the exchange of information with their counterparts in other countries, such as the International Criminal Police Organization (Interpol) and the Regional Intelligence Liaison Offices (RILOS) of the World Customs Organization.

Concerning financial tracking and security, banks and financial institutions are not required by law to provide information about suspicious operations, but the bill establishing the Financial Intelligence Unit does contain provisions to this effect, as indicated earlier. Likewise, although Chile has ratified the International Convention for the Suppression of the Financing of Terrorism, its domestic legislation has not yet been brought into line with the Convention. Chile is nevertheless a member of the Financial Action Task Force for South America (GAFISUR) and is in fact currently presiding over that subregional body, which in December 2001 adopted the eight special recommendations on the financing of terrorism previously agreed by the Financial Action Task Force (FATF).

The competent Chilean bodies have publicized, distributed and investigated the lists sent to the Chilean Government under the Security Council resolutions identifying persons and organizations linked to international terrorism.

Although there is no specific legislation permitting the freezing of bank accounts or assets by administrative decree, requests from abroad for the freezing of assets can be processed if they are made in the context of a trial being heard by a foreign court and are formalized through the corresponding letter rogatory. The authority which must rule on the admissibility of the letter of rogatory is the Supreme Court of Justice; if it is ruled admissible, it must be complied with by the competent judge.

Nevertheless, the important thing in the preventive phase is the establishment of an intelligence and cooperation network that will make it possible to identify or recognize assets derived from or intended to finance the commission of terrorist acts. The main role here will be played by the future National Intelligence Agency that will succeed the present Directorate of Public Security and Investigation.[1] The National Intelligence Agency will play a preventive role when an intelligence network for the prevention of terrorist acts is established.

Another step has been the creation of the Financial Analysis and Intelligence Unit, whose task it will be to prevent the use of the financial system and other sectors of economic activity for the commission of any of the crimes specified. It is envisaged that the Unit's functions will include investigation of the financing of

[1] It should be pointed out that the Government has sent to Parliament for adoption the bill establishing the National Intelligence Agency.

terrorist activities and that the measures contemplated for combating drug trafficking will be extended to cover financial operations that may be carried out to finance activities of a terrorist nature.

To prevent persons linked or related to terrorism from entering the country, training was provided to the staff of Chile's National Central Bureau of Interpol, which has an officer from the *Policía de Investigaciones* permanently assigned to the Interpol General Secretariat in Lyon, France, and two officers assigned to the Interpol American Subregional Bureau in Buenos Aires, Argentina. Ongoing administrative and technical contact is maintained with counterparts around the world, making timely use of the mechanisms for secure and rapid exchange of relevant information and background data and relaying all instructions on international terrorists to the border controls that come under the institution's responsibility. As an early-warning mechanism, this system has proved very useful in neutralizing terrorism.

From the standpoint of national security, the police forces coordinate regularly, both administratively and through the technical channel, with the Directorate of Public Security and Information, making it possible to anticipate and act promptly to deal with any incident in the country that is of a terrorist nature.

With regard to the exchange of intelligence information, permanent contact is maintained with counterparts in various countries, making it possible to obtain additional background data on the terrorist groups that operate internationally and allowing a fuller and smoother exchange of operational information.

In the area of bioterrorism, there is coordination with the competent agencies in handling unknown substances and work is already being done on investigating the origin of suspicious letters.

Our immigration legislation, contained in Decree-Law No. 1094 of 1975 and Supreme Decree No. 597 of 1984, provides that aliens linked to the commission of terrorist acts may be denied entry to the country or expelled from it and have their residence permits denied or revoked.

The respective police authorities act as the channels for receiving or obtaining information on such terrorist links with a view to deciding or decreeing any of the immigration measures mentioned. The police report all criminal offences or conducts that come to their attention in the exercise of their duties or when requested by the immigration authorities. Such police reports cover not only acts committed within the country but also all the information compiled through Interpol and coming from different countries around the world.

Lastly, the Southern Common Market (MERCOSUR), Bolivia and Chile have agreed to exchange information on visa denials, expulsions and wanted persons in the member countries. Such coordination furnishes the region's immigration authorities with more information for deciding on applications for residence permits filed in their respective countries.

Questions of asylum and refugee status in Chile are governed by the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees and the Aliens Act No. 19.476 and its implementing regulations.

The grounds for rejecting applicants for asylum or refugee status are those set out in article 1 (c), (d), (e) and (f) of the Convention relating to the Status of Refugees.

The Aliens Act No. 19.476 established the Commission on the Granting of Refugee Status, whose mandate is to advise the authority responsible for ruling on applications. It has the power to request and obtain whatever background information it considers relevant to facilitate the authority's decision, which may include information on applicants' police and judicial records, sought through Interpol, and information from Chile's consular missions in other countries. The information thus obtained is supplemented by the reports issued by the Office of the United Nations High Commissioner for Refugees (UNHCR).

Lastly, it is necessary to bear in mind that, as with any application for a residence permit filed by an alien, the grounds for rejection and revocation provided for in our immigration laws also apply to refugee status and measures may be taken to expel a refugee or prohibit his entry to the country based on adverse information that justifies such action.

Following the 11 September 2001 attacks in the United States, a consultative mechanism was set up between the Directorate of Consular Affairs and Immigration of the Ministry of Foreign Affairs and the Directorate of Public Security and Information to permit more exhaustive scrutiny of visa applications from persons wishing to enter the country.

13. **Subparagraphs 3 (a) and (b):**

Please describe the existing measures and procedures for the exchange of operational information and for cooperation on administrative and judicial matters with countries other than those mentioned in the report.

The Chilean *Carabineros* and *Policía de Investigaciones* regularly revise their information-gathering plans, keeping a constant eye on groups or persons suspected of links to terrorist activities and conducting intelligence analyses on the basis of available background information. Their tactical and strategic units have been reinforced through the establishment of ongoing communication and coordination, both administratively and through a technical channel of direct communication, with Interpol and the intelligence, narcotics control and aliens services. This has made it possible to monitor aliens suspected of terrorist links or involvement in unlawful acts.

As a way of exchanging experience in the area of international terrorism, police intelligence officers have taken part in seminars held in Uruguay and Brazil to coordinate the anti-terrorism strategies applied in each country, so as to gain an overall picture that will make it possible to standardize investigation policies and the timely exchange of information.

With regard to the detection of forged or falsified travel documents, the *Policía de Investigaciones*, which is responsible for border controls of persons, has increasingly been sending its officers on international training courses to learn how to detect such forgeries or falsifications.

Internally, the Civil Registry and Identification Service, which issues passports and identity cards, has developed a new identification system. The new documents

have advanced security features, are valid for a longer period of time and are designed to international requirements and standards. Under the new system, all the graphic data on an identity card or passport — the photograph, the signature and the fingerprint — are digitalized. This system permits the automated verification of peoples' identity using Automated Fingerprint Identification Systems (AFIS) technology and the blocking of identity cards and passports, thereby reducing the risks entailed by their loss or theft.

Once a central computerized identification system is set up, an identification database for all Chileans and resident aliens will be available.

The new documents meet International Civil Aviation Organization (ICAO) standards for travel documents. Both incorporate modern security features to protect against falsification and forgery.

Security has been considerably tightened in border controls of persons and luggage. For example, investments in modern luggage scanning systems have made it possible to detect the presence of arms, explosives and hazardous materials.

As for controlling weapons that might be used by terrorist groups, Chile, as indicated earlier, has strict arms control legislation that expressly prohibits private individuals from bearing or owning a range of highly destructive weapons, such as sawn-off shotguns, machine guns, sub-machine guns or devices containing gases or corrosive substances. This prohibition is waived for the armed forces, the *Carabineros*, the *Policia de Investigaciones* and the Directorate of Civil Aviation, but only in respect of the number of weapons authorized by the Ministry of National Defence at the proposal of the service concerned.

The Ministry of National Defence, the armed forces garrison commanders and the *Carabineros* are responsible for the strict, rigorous control and registration of authorized weapons. In any case, without special authorization no one may register more than two firearms in his own name.

Operational information is exchanged primarily with the countries of the region, namely, the MERCOSUR countries and associated countries and Peru, as described under subparagraph 3 (b) of Chile's initial report.

14. Subparagraph 3 (c):

Please provide a list of countries with which Chile has concluded bilateral treaties relating to terrorism.

Chile has not signed any bilateral treaties relating specifically to terrorism. It is, however, a party to two bilateral treaties that have an indirect bearing on terrorism, namely:

- Agreement with Italy on cooperation in combating terrorism, organized crime and drug trafficking, signed at Rome on 16 October 1992 and published in the *Official Gazette* of 22 February 1996;
- Agreement with Israel on cooperation in combating illicit drug trafficking and crime, adopted at Jerusalem on 23 March 1993 and published in the *Official Gazette* of 3 May 1995.

15. **Subparagraph 3 (d):**

The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Chile in becoming a party to the instruments to which it is not yet a party and in enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

As indicated in the report submitted to the Committee in 2001, Chile is a party to all the existing international multilateral conventions and protocols adopted universally or within the framework of the United Nations, including the International Convention for the Suppression of the Financing of Terrorism of 1999.

In addition, the Organization of American States (OAS) completed the Inter-American Convention against Terrorism, in 2002, and adopted it at its most recent General Assembly. Chile signed the Convention on 3 June 2002 and will be sending it shortly to the National Congress for adoption and subsequent ratification.

Please indicate the legislation and other measures adopted to implement the international conventions and other protocols on terrorism to which Chile is a party.

The aforesaid conventions are fully applicable in Chile. Most of the crimes described in them are covered by Chilean law, which punishes terrorist activities. Chile will be conducting a specific study to determine which conducts among those described in the conventions have not yet been criminalized, with a view to drafting and adopting legislation to that end. As indicated under section 5 of this report, the bill criminalizing the wilful provision or collection of funds for terrorism will be submitted to the legislature shortly.

16. **Paragraph 3 (e):**

Have the offences set forth in the relevant international conventions and protocols on terrorism been included as extraditable offences in the bilateral extradition treaties to which Chile is a party?

The offences set forth in the relevant multilateral conventions are deemed to be extraditable offences under the bilateral extradition treaties signed by Chile with countries that are also parties to those multilateral conventions.

17. **Subparagraph 3 (g):**

Please describe the procedures and legal provisions that regulate extradition. Has Chile concluded any bilateral treaties on extradition?

Procedures and legal provisions regulating extradition

Second stage proceedings

A chamber of the Supreme Court hears this stage of the proceedings and summons the defendant, the prosecutor and the person responsible for processing the extradition to deliver the case file. The summary of the case and the arguments are then presented.

There is no appeal against the decision of the second stage proceedings.

Bilateral extradition treaties concluded by Chile

Chile has concluded the following bilateral treaties on extradition:

1. **Australia**. Extradition Treaty. Signed at Canberra on 6 October 1993. Promulgated by Supreme Decree of the Ministry of Foreign Affairs No. 1844 of 27 December 1995. Official Gazette: 20 February 1996.

2. **Belgium**. Extradition Convention. Signed at Santiago on 29 May 1899. Promulgated on 13 March 1904. Official Gazette: 5 April 1904.

3. **Bolivia**. Extradition Treaty. Signed at Santiago on 15 December 1910. Promulgated by Decree No. 500 of 8 May 1931. Official Gazette: 26 May 1931.

4. **Brazil**. Extradition Treaty. Signed at Rio de Janeiro on 8 November 1935. Promulgated by Decree No. 1180 of 18 August 1937. Official Gazette: 30 August 1937.

5. **Canada**. The Extradition Treaty signed with the United Kingdom of Great Britain and Northern Ireland is in force between Chile and Canada. Signed at Santiago on 26 January 1897. Promulgated on 14 April 1898. Official Gazette: 22 April 1898.

6. **Colombia**. Extradition Treaty. Signed at Bogota on 16 November 1914. Promulgated by Decree No. 1472 of 18 December 1928. Official Gazette: 7 January 1929.

7. **Republic of Korea**. Extradition Treaty, signed at Seoul on 21 November 1994. Promulgated by Decree No. 1417 of 1 September 1997. Official Gazette: 23 October 1997.

8. **Ecuador**. Extradition Convention. Signed at Quito on 10 November 1897. Promulgated on 27 September 1899. Official Gazette: 9 October 1899.

9. **Spain**. Treaty on Extradition and Judicial Assistance in Criminal Matters. Signed on 14 April 1992. Promulgated by Supreme Decree of the Ministry of Foreign Affairs No. 31 of 10 January 1995. Official Gazette: 11 April 1995.

10. **United States of America**. Treaty for the Extradition of Offenders. Signed at Santiago on 17 April 1900. Official Gazette: 11 August 1902. Supplementary Protocol to the Extradition Treaty. Signed at Santiago on 15 June 1901. Both promulgated on 6 August 1902. Official Gazette: 11 August 1902.

11. **Mexico**. Treaty on Extradition and Mutual Legal Assistance in Criminal Matters. Signed at Mexico City on 2 October 1990. Promulgated by Supreme Decree of the Ministry of Foreign Affairs No. 1011 of 30 August 1993. Official Gazette: 30 November 1993.

12. **Nicaragua**. Treaty on Extradition and Judicial Assistance in Criminal Matters. Signed at Santiago on 28 December 1993. Promulgated by Supreme Decree of the Ministry of Foreign Affairs No. 411 of 8 June 2001. Official Gazette: 20 August 2001.

13. **Paraguay**. Extradition Treaty. Signed at Montevideo on 22 May 1897. Official Gazette: 13 November 1928.

14. **Peru**. Extradition Treaty. Signed at Lima on 5 November 1932. Promulgated by Decree No. 1152 of 11 August 1936. Official Gazette: 27 August 1936.

15. **United Kingdom of Great Britain and Northern Ireland**. Extradition Treaty. Signed at Santiago on 26 January 1897. Promulgated on 14 April 1898. Official Gazette: 22 April 1898.

16. **Uruguay**. Extradition Treaty. Signed at Montevideo on 10 May 1897. Official Gazette: 30 November 1909.

17. **Venezuela**. Extradition Treaty. Signed at Santiago on 2 June 1962. Promulgated by Supreme Decree of the Ministry of Foreign Affairs No. 355 of 10 May 1965. Official Gazette: 1 June 1965.

Is political motivation recognized as a ground for refusing requests for the extradition of alleged terrorists?

Terrorist acts are not considered to be political offences as a ground for refusing requests for extradition.

17. **Paragraph 4**

Has Chile addressed any of the concerns expressed in paragraph 4 of the resolution?

As the Pro Tempore Secretariat of the Rio Group in 2001, Chile had to coordinate the Group's position in various multilateral forums, particularly the United Nations. It also organized a meeting of legal experts from Rio Group countries to discuss issues relating to the prevention and suppression of terrorism, particularly within the framework of Security Council resolution 1373 (2001). This resulted in the drafting of a working paper for the Ministers for Foreign Affairs which, essentially, draws attention to the challenges posed by terrorism to legal structures and States that the fight against terrorism must always respect national and international law and human rights. The paper reproduced information on existing national legislation dealing with terrorism, based on which it was concluded that judicial cooperation and extradition mechanisms among the countries of the Rio Group must be strengthened.

The working paper was submitted to the Ministers for Foreign Affairs of the Rio Group, who expressed profound appreciation for the work done by the legal experts. This was underscored in the statement on international terrorism issued by the Ministers for Foreign Affairs in New York on 14 November 2001, in which they undertook to give full attention to the report and to maintain a system of ongoing consultations so as to adapt the legislation of member countries for the purpose of effectively combating international terrorism.

The recently adopted Inter-American Convention against Terrorism, which Chile has signed, also stipulates measures for cooperation on border and customs controls in order to detect and prevent the international movement of terrorists and trafficking in arms or other materials intended to support terrorist activities. In that context, the parties agree to promote cooperation and the exchange of information to improve controls on the issuance of travel and identity documents and to prevent their counterfeiting, forgery or fraudulent use. They state that law enforcement authorities should work closely with one another to enhance the effectiveness of law enforcement action to combat the offences established in universal international instruments. They also agree to afford one another mutual legal assistance with

respect to the prevention, investigation and prosecution of the offences established in international instruments.

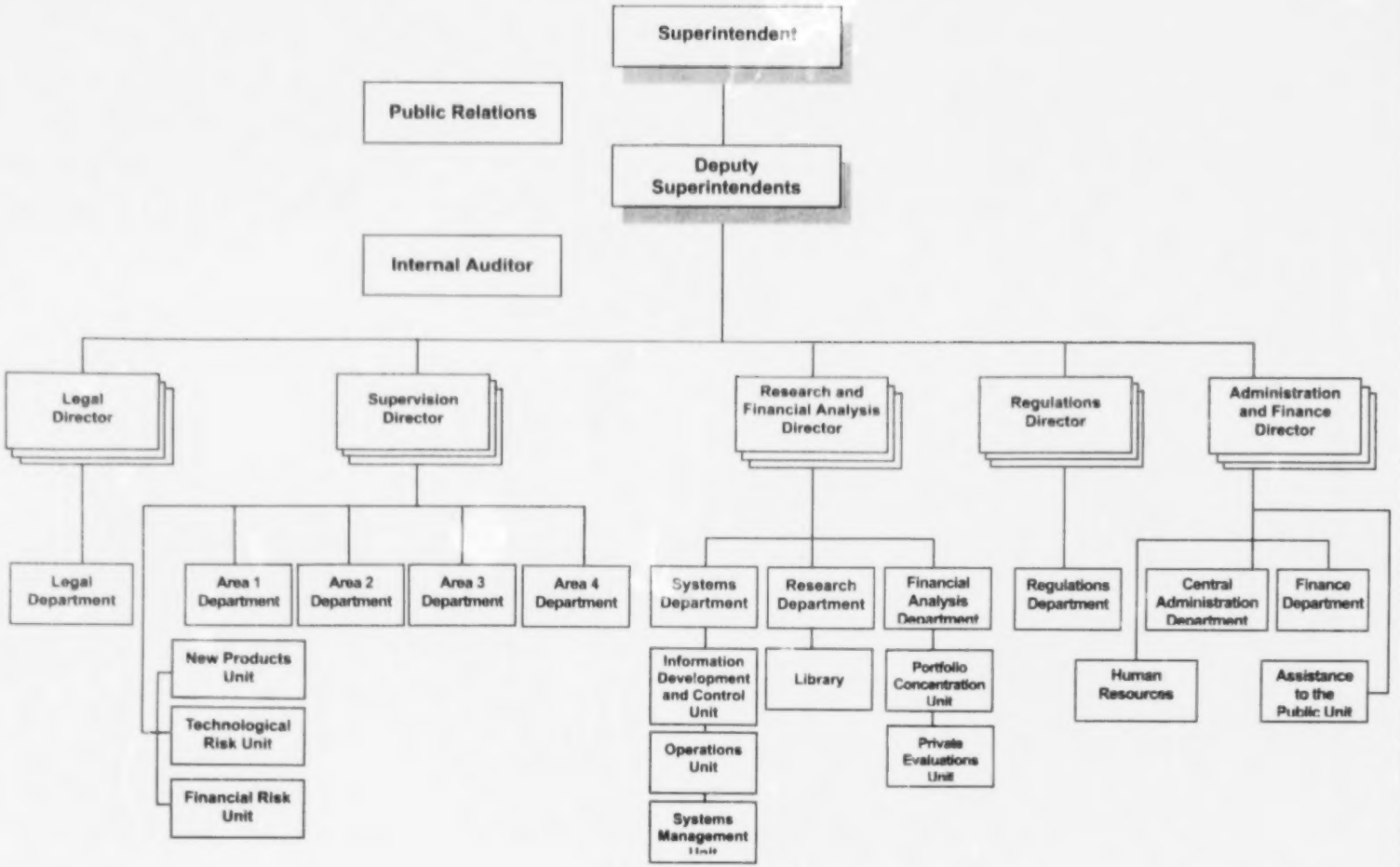
Measures to comply with the provisions of this Convention will be adopted as soon as it enters into force internationally and is ratified by Chile.

19. Other matters

Could Chile please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

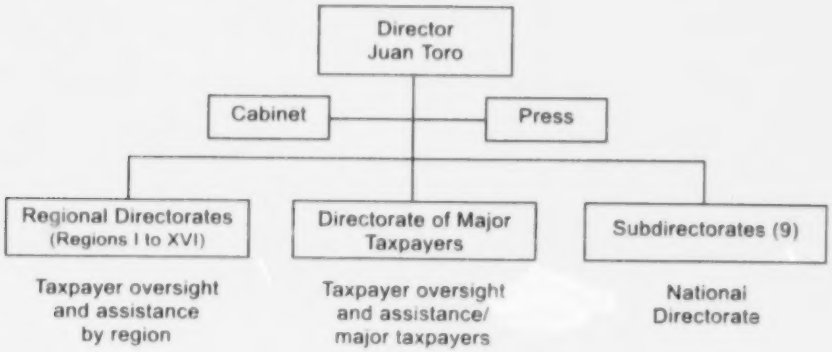
Annex 3 to this report contains the organizational charts issued by Chile's Internal Taxation Service, Superintendency of Banks and Financial Institutions, Superintendency of Securities and Insurance and National Customs Service, which provide the requested information.

Organizational chart of the Superintendency of Banks and Financial Institutions

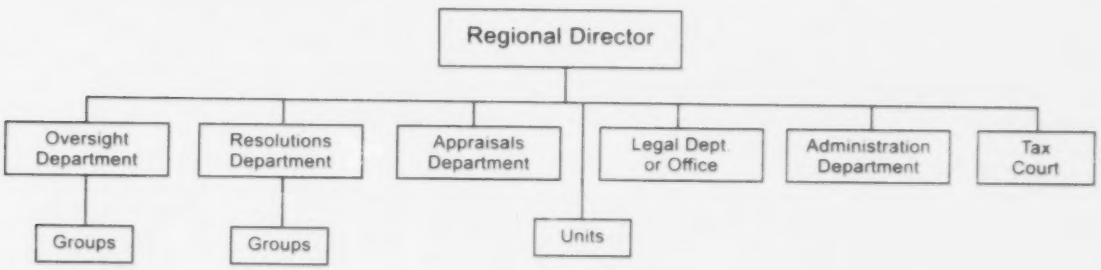


Internal Taxation Service of Chile

1. General organizational chart



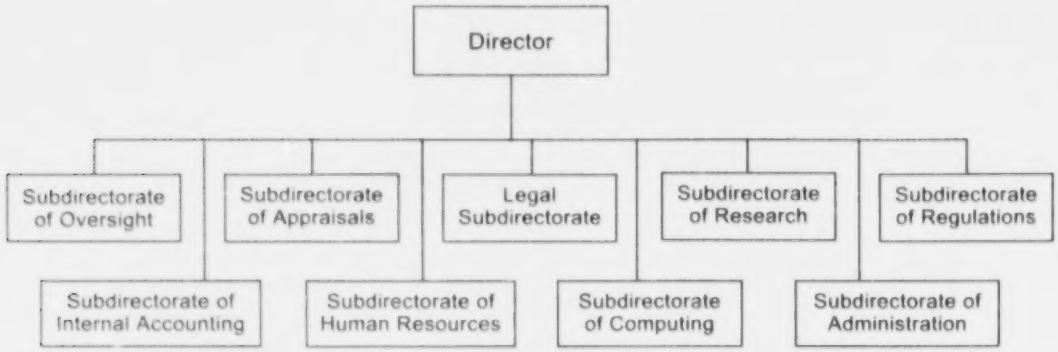
2. Organizational chart of Regional Directorates



3. Organizational chart: Directorate of Major Taxpayers

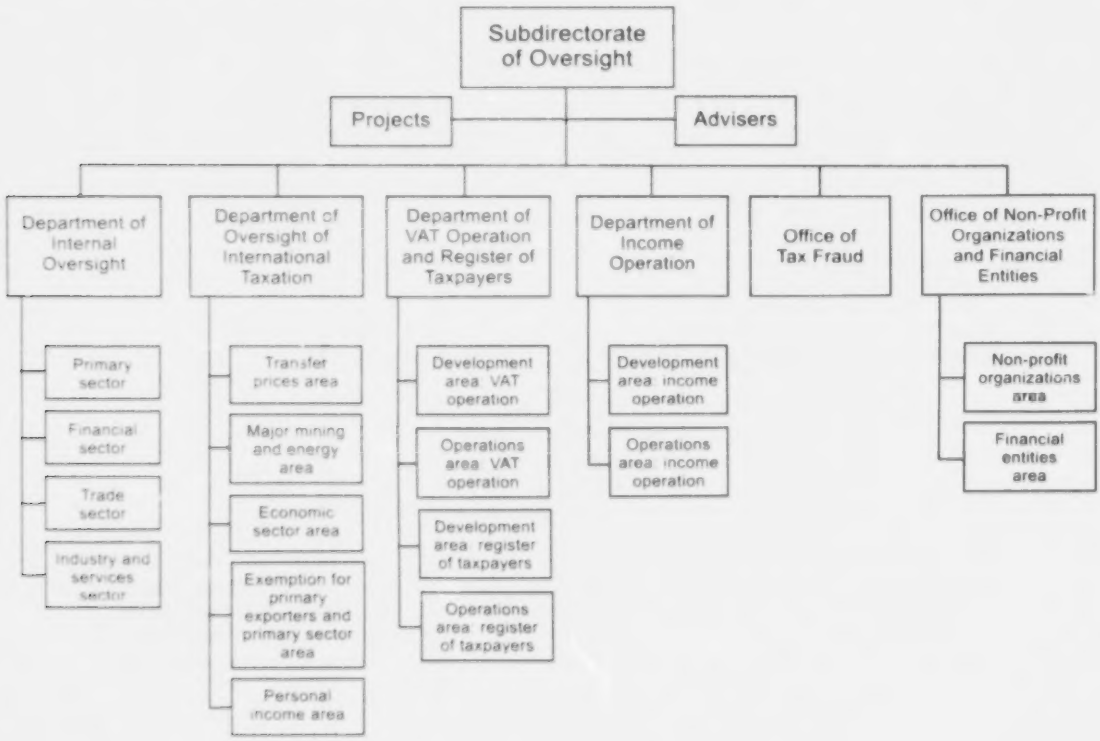
June 2002

4. General organizational chart: National Directorate

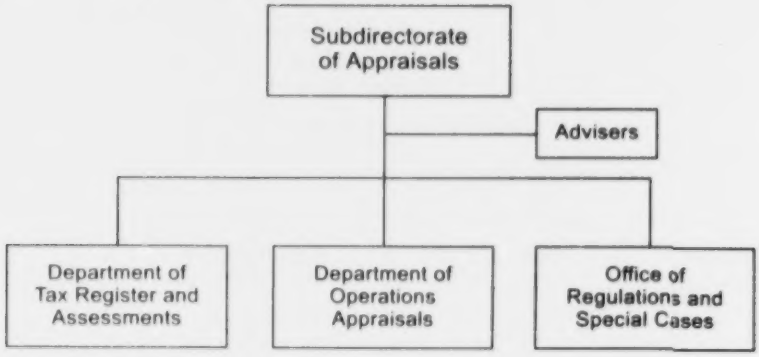


5. Detailed organizational charts of subdirectorates

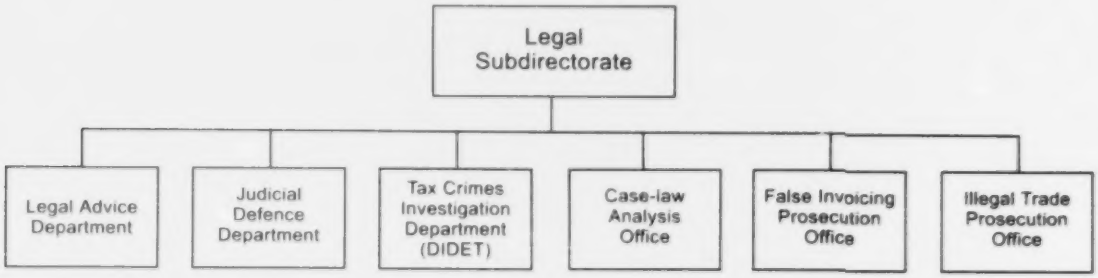
5.1. Subdirectorate of Oversight



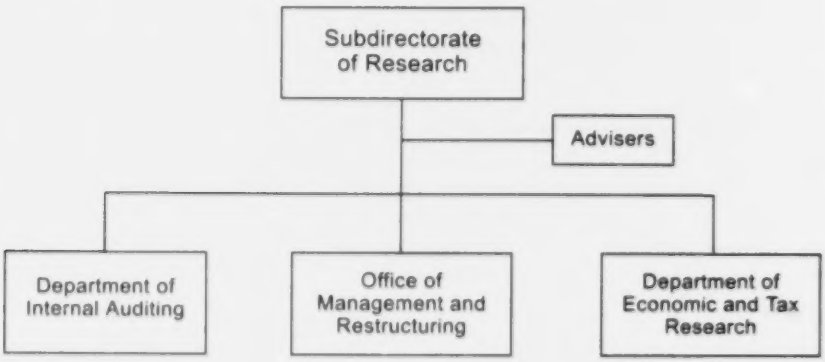
5.2. Subdirectorate of Appraisals


Subdirectorate of Appraisals
Advisers
Department of Tax Register and Assessments
Department of Operations Appraisals
Office of Regulations and Special Cases

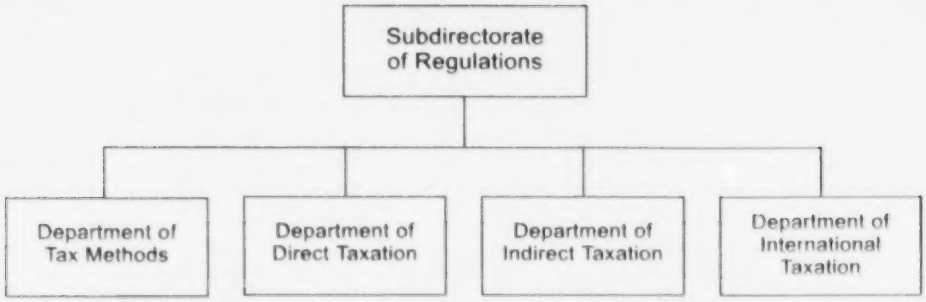
5.3. Legal Subdirectorate



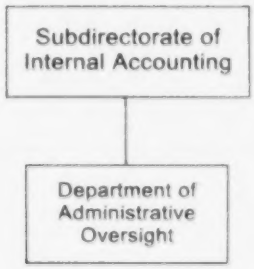
5.4. Subdirectorate of Research



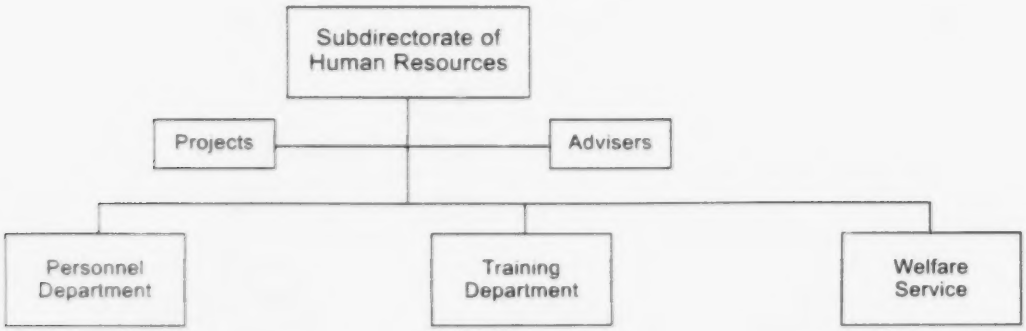
5.5. Subdirectorate of Regulations



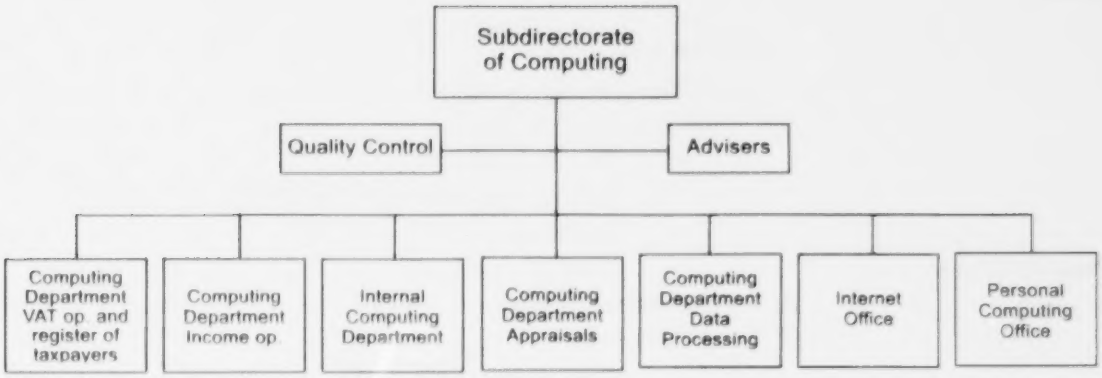
5.6. Subdirectorate of Internal Accounting



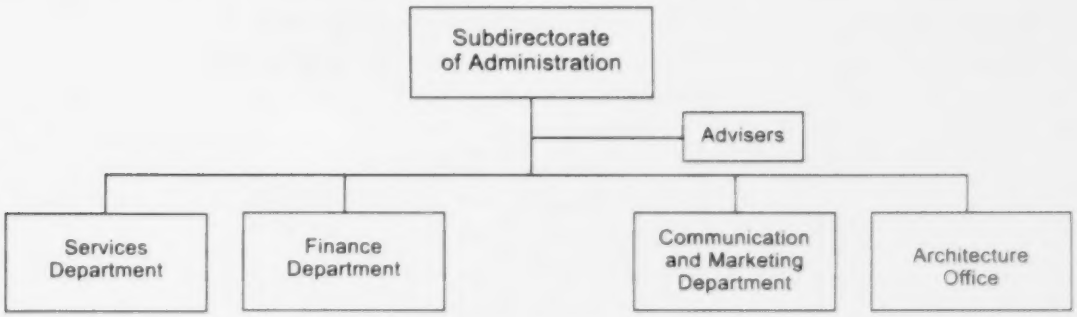
5.7. Subdirectorate of Human Resources



5.8. Subdirectorate of Computing



5.9. Subdirectorate of Administration



Organizational chart of the National Customs Service

E-mail

National Director

DEPARTMENT STAFF
- General Secretariat
- International Agreements
- Internal Auditing
- Research

SUBDIRECTORATES

Subdirectorate of Oversight

DEPARTMENTS
- Customs Intelligence
- National Supervision and Control Team
- Special Agents
- Drugs

Technical Subdirectorate

DEPARTMENTS
- Customs Procedures
- Customs Methods

Legal Subdirectorate

DEPARTMENTS
- Reports and Legal Advice
- Judicial Defence and Legal Control
- Administrative Investigation of Customs Crimes

Administrative Subdirectorate

DEPARTMENTS
- Goods and Services
- Finance

Computing Subdirectorate

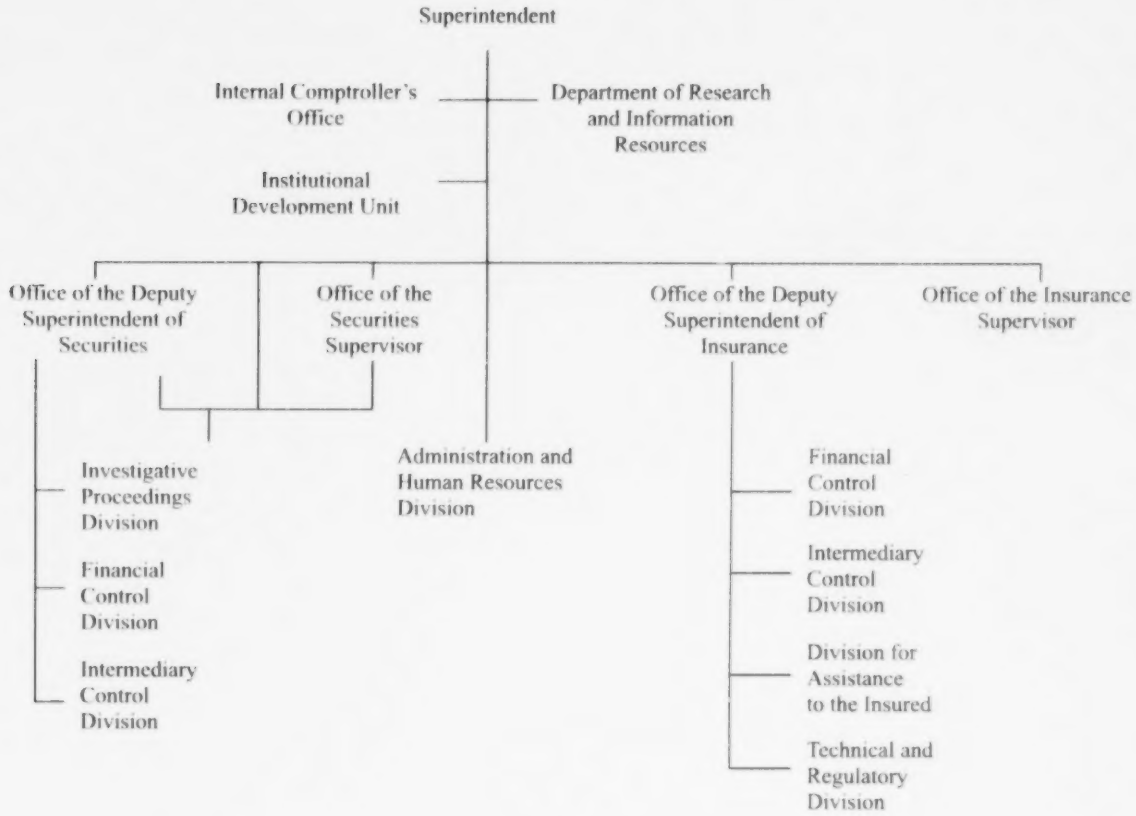
DEPARTMENTS
- Systems Management
- Systems Development
- Systems Operation

Human Resources Subdirectorate

DEPARTMENTS
- Personnel
- Training
- Welfare

REGIONAL CUSTOMS DIRECTORATES AND ADMINISTRATIONS

Organizational chart of the Superintendency of Securities and Insurance


Superintendent
Internal Comptroller's Office
Department of Research and Information Resources
Institutional Development Unit
Office of the Deputy Superintendent of Securities
Office of the Securities Supervisor
Office of the Deputy Superintendent of Insurance
Office of the Insurance Supervisor
Investigative Proceedings Division
Financial Control Division
Intermediary Control Division
Administration and Human Resources Division
Financial Control Division
Intermediary Control Division
Division for Assistance to the Insured
Technical and Regulatory Division